IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL REVISION APPLICATION NO. 2 OF 2003.

Miss Idalina Maria Dores D'Cruz,
r/o H.No. 442, Loutolim. ... Applicant.

Versus

1. Fr. Caetano Camilo Vaz,
   r/o H.No. 548, Loutolim. Clergy
   Home, "Christ the King", Margao.
2. The Director of Prosecution of Goa
   State, Panaji. ... Respondents.

Mr. Nitin Sardessai, Advocate for the Applicant.

Mr. J.P. Mulgaonkar, Advocate for the Respondent No. 1.

Mrs. W. Coutinho, Addl. Public Prosecutor for the
Respondent No. 2.

Coram : P.V. HARDAS, J.

Date : 10th April 2003.

ORAL JUDGMENT.

By consent of parties, this Criminal Revision Application is taken up for final hearing.

1a. This is a Criminal Revision Application filed against the Order, dated 10th October 2002, rendered in Criminal Revision Application No. 19 of 2002, by which the learned District and Sessions Judge quashed and set aside the Order of the learned trial Court, dated 6th March 2002, discharging the applicant/accused for offences punishable under Sections 379 and 447 of the Indian Penal Code. The revisional Court proceeded on the ground that the material on record, prima facie at that stage, was sufficient to establish the offences against the applicant/accused and the learned Magistrate

was, therefore, in error in discharging the accused.

2. I have heard Mr. Sardessai, learned counsel appearing on behalf of the applicant, Mr. Mulgaonkar, learned counsel on behalf of the respondent no. 1 and Mrs. Coutinho, learned Additional Public Prosecutor on behalf of the respondent no. 2.

3. With the assistance of the learned counsel, I have perused the Order of the learned trial Court and the Order of the learned revisional Court and I find no irregularity in the findings recorded by the learned revisional Court nor do I see any justification in interfering in this revision. The learned revisional Court rightly addressed itself to the availability of material on record to justify the issuance of process.

4. However, the applicant/accused is stated to be 62 years of age and, in such circumstances, according to me, the interest of justice would require an order directing the learned Magistrate to expeditiously record the evidence before charge. The applicant/accused ofcourse has a right to apply for discharge after the evidence before charge is recorded. Needless to mention, looking to the age of the applicant/accused, she would be entitled to move an application seeking exemption from appearance when the evidence before

charge is recorded. If such an application is made, the learned trial Court shall decide the said application in accordance with law.

5. With the above observations, Criminal Revision Application stands dismissed.

(P.V. HARDAS)
JUDGE.

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